

How SB 317 Changes the

Requirements to Complete and Environmental Impact Statement

Existing law: Agencies shall "An agency is required to conduct a more extensive environmental analysis (environmental impact statement-EIS) when "major actions of state government significantly affecting the quality of the human environment..."

SB 317: an agency must conduct an EIS for "major actions of state government that will significantly affect the quality of the human environment..." The question is, how does the addition of "will" change when an EIS is required? Will an agency have to prove the significance of the impact prior to conducting an EIS.

• Existing law: An EIS had to analyze the following issues: (those things not included in SB 317 are italicized)

- "(A) *the environmental impact of the proposed action*;
- (B) *any adverse environmental effects that cannot be avoided if the proposal is implemented*;
- (C) alternatives to the proposed action (including a meaningful no action alternative)...;
- (D) any regulatory impacts to private property rights...;
- (E) the relationship between short-term uses of the human environment and the maintenance and enhancement of long-term productivity;
- (F) any irreversible and irretrievable commitment of resources...;
- (G) the customer fiscal impact statement, if required...;
- (H) *the details of* the beneficial aspects of the proposed project, both short-term and long-term, and the economic advantages and disadvantages of the proposal.

SB 317: An EIS must include: (new language is italicized)

- (a) "*a detailed statement of the reasonably foreseeable environmental and economic impacts of the proposed project*;"
- (b) "*a statement of the reasonable alternatives*" *for state sponsored projects or when an project sponsor volunteers to do the alternatives analysis*;
- (c) "*a statement of* the regulatory impacts on private property rights...";
- (d) "*a statement of* the relationship between short-term uses of the human environment and the maintenance and enhancement of long-term productivity;"
- (e) "*a statement of* any irreversible and irretrievable commitment of resources...;"
- (f) "*a statement of* the customer fiscal impact statement, if required...;"
- (g) "*a statement of* the beneficial aspects of the proposed project, both short-term and long-term, and the economic advantages and disadvantages of the proposal;"
- (h) "a meaningful no-action alternative...."
- (i) *a statement that the state action is a major action requiring an environmental and economic review complying with this section.*"

Montana Code Annotated 2009

[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

27-19-306. Security for damages. (1) Subject to 25-1-402, on granting an injunction or restraining order, the judge shall require a written undertaking to be given by the applicant for the payment of the costs and damages that may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained. Except as provided in subsection (2), the undertaking:

- (a) must be fixed at a sum that the judge considers proper; and
- (b) may be waived:
 - (i) in domestic disputes; or
 - (ii) in the interest of justice.

(2) (a) If a party seeks an injunction or restraining order against an industrial operation or activity, the judge shall require a written undertaking to be filed by the applicant. The amount of the written undertaking must be set in an amount that includes all of the wages, salaries, and benefits of the employees of the party enjoined or restrained during the anticipated time that the injunction or restraining order will be in effect. The amount of the written undertaking may not exceed \$50,000 unless the interests of justice require. The written undertaking must be conditioned to indemnify the employees of the party enjoined or restrained against lost wages, salaries, and benefits sustained by reason of the injunction or restraining order.

(b) As used in subsection (2)(a), "industrial operation or activity" includes but is not limited to construction, mining, timber, and grazing operations.

(3) Within 30 days after the service of the injunction, the party enjoined may object to the sufficiency of the sureties. If the party enjoined fails to object, all objections to the sufficiency of the sureties are waived. When objected to, the applicant's sureties, upon notice to the party enjoined of not less than 2 or more than 5 days, shall justify before a judge or clerk in the same manner as upon bail on arrest. If the sureties fail to justify or if others in their place fail to justify at the time and place appointed, the order granting the injunction must be dissolved.

(4) This section does not prohibit a person who is wrongfully enjoined from filing an action for any claim for relief otherwise available to that person in law or equity and does not limit the recovery that may be obtained in that action.

History: En. Sec. 86, p. 59, Bannack Stat.; re-en. Sec. 115, p. 154, L. 1867; re-en. Sec. 132, p. 52, Cod. Stat. 1871; re-en. Sec. 174, p. 79, L. 1877; re-en. Sec. 174, 1st Div. Rev. Stat. 1879; re-en. Sec. 176, 1st Div. Comp. Stat. 1887; en. Sec. 874, C. Civ. Proc. 1895; re-en. Sec. 6646, Rev. C. 1907; re-en. Sec. 9246, R.C.M. 1921; Cal. C. Civ. Proc. Sec. 529; re-en. Sec. 9246, R.C.M. 1935; amd. Sec. 53, Ch. 535, L. 1975; R.C.M. 1947, 93-4207; amd. Sec. 48, Ch. 12, L. 1979; amd. Sec. 8, Ch. 399, L. 1979; amd. Sec. 1, Ch. 575, L. 1995.